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EXAMINER

PARSLEY, DAVID J

ART UNIT PAPER NUMBER

3643

DATE MAILED: 04/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/892,486

Applicant(s)

D'AGNONE ET AL.

Examiner

David J Parsley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.



## **Detailed Action**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 6/28/00. It is noted, however, that applicant has not filed a certified copy of the patent application as required by 35 U.S.C. 119(b).

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Europe on 6/28/00. It is noted, however, that applicant has not filed a certified copy of the patent application as required by 35 U.S.C. 119(b).

### ***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because it contains legal phraseology in particular the words "means" and "said". Correction is required. See MPEP § 608.01(b).

***Drawings***

3. The drawings are objected to because the drawings do not contain English words and characters. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Objections***

4. Claim 6 is objected to because of the following informalities: on page 5 line 28 the word “product” should be changed to - -products- - and on page 5 line 29 the word “is” should be changed to - -are- -. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant claims a "Paper product in particular a calendar leaf, greeting card, visiting card, etc...." The use of "etc." makes it unclear what other paper products the applicant is claiming as the patentable invention, therefore the claim does not distinctly claim the subject matter of the invention and is indefinite.

Claims 2-9 depend from rejected claim 1 and include all the limitations of claim 1, thereby rendering these dependent claims indefinite.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is a Markush-type claim and it is not clear what geometric form applicant is claiming as the invention.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim is a Markush-type claim and it is not clear what connecting element applicant is claiming as the invention.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim states, "...the section (4) has the dimensions of a postcard." Postcards come in different sizes and have various differing dimensions therefore it is not known what dimensions for "section (4)" the applicant is claiming as the patentable invention, thus this claim does not distinctly claim the subject matter of the invention and is indefinite.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 5,158,809 to Proctor.

Referring to claim 1, Proctor discloses a paper product, in particular a greeting card – 10 comprising two paper surfaces – 13,14 glued to one another by an adhesive – 17 wherein at least one germinable seed – 23 is arranged between the paper surfaces – 13,14 in that the germinable seed – 23 is contained in a section separable along a perforation – 18 – see figure 2. Proctor does not disclose the germinable seed as being a corn seed. It would have been obvious to one of ordinary skill in the art to take the greeting card of Proctor and use corn seed as the germinable seed because this will make the greeting card more effective and more pleasing to the one receiving the card since it contains the extra gift of the seed. Corn seed is readily available and a common crop, and the greeting card of Proctor does not specify any particular type of seed nor does Proctor state why any particular seed can not be compatible with the disclosed greeting card thus any type of seed including corn seed can be used since it will easily fit into the greeting card of Proctor therefore it would have been obvious to use corn seed with the greeting card disclosed by Proctor.

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Referring to claim 2, Proctor further discloses the perforated section – 18 may have any geometric form including rectangular – see figure 2. Therefore it would have been obvious to one of ordinary skill in the art to take the greeting card of Proctor and further add the perforated section being rectangular of Proctor, so as to ensure that the greeting card can allow the plant that it contains to grow out through the card without the card interfering with the plant's growth, thus making the greeting card more effective and easy to use with minimal handling from the user.

Referring to claim 9, Proctor discloses the paper product is divisible into an inscription field – 13 – see figures 1-2, and a section – see figure 2 where the section is the area enclosed by the perforation – 18. Therefore it would have been obvious to one of ordinary skill in the art to take the greeting card of Proctor and further add the paper product divisible into an inscription field and a section of Proctor, so as to make the greeting card more user friendly since the inscription field won't be interfered with as the seed grows into a plant, thus allowing the user to be able to read the inscription field at all times.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Proctor as applied to claim 1 above, and further in view of U.S. Patent No. 5,595,008 to Johnson. Proctor does not disclose the section comprises folding lines for producing a three dimensional body. Johnson does disclose the section – 26 comprises folding lines – 54 for producing a three-dimensional body – see figures 5-7. Therefore it would have been obvious to one of ordinary skill in the art to take the greeting card of Proctor and add the three-dimensional section with fold lines of Johnson, so as to make the card more stable when it is resting on an object and to protect the plant as it is enclosed within the three-dimensional area.



Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Proctor as applied to claim 1 above, and further in view of U.S. Patent No. 5,860,245 to Welch. Proctor does not disclose the adhesive is a decomposable adhesive. Welch does disclose the adhesive is a decomposable adhesive – see column 3 lines 3-10. Therefore it would have been obvious to one of ordinary skill in the art to take the greeting card of Proctor and add the decomposable adhesive of Welch, so as to make the greeting card more effective in promoting the plant seed to grow since the adhesive is decomposable and environmentally friendly and thus won't harm the growth of the seed into a plant.

Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Proctor as applied to claim 1 above, and further in view of U.S. Patent No. 5,062,229 to Werjefelt.

Referring to claim 5, Proctor does not disclose a calendar comprising a plurality of paper products wherein the paper products are coupled with each other by means of eye rings.

Werjefelt does disclose a calendar – R comprising a plurality of paper products – 2 wherein the paper products – 2 are coupled with each other by means of eye rings – 5,6, and 7 – see figures 1-2. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Proctor and further add the calendar with a plurality of paper products and eye rings of Werjefelt, so as to make the paper product more marketable and easily manufactured in that a calendar is a product that made cheaply since it is made of paper.

Referring to claim 6, Proctor does not disclose the calendar paper product is divisible into a calendar leaf and a section. Werjefelt does disclose the calendar paper product – 2 is divisible into a calendar leaf – 24 and a section – 26. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Proctor and add the calendar with calendar

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leaf and other section of Werjefelt, so as to make the calendar more aesthetically pleasing in that the section other than the calendar leaf can have pictures which makes the user look at the calendar thus making the calendar more effective.

Referring to claim 7, Proctor does not disclose a calendar wherein the section has the dimensions of a post card. Werjefelt does disclose the section – 26 has the dimensions of a post card – see column 3 lines 31-37. Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Proctor and add the calendar with a section with the dimensions of a post card of Werjefelt, so as to make the paper product more versatile and thus more compact and less expensive since it combines the a post card with a picture and the calendar leaf into one unit.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Proctor as applied to claim 1 above, and further in view of U.S. Patent No. 4,838,580 to Tuhkanen. Proctor does not disclose a visiting card made from a paper product wherein the paper product is divisible into an address field and a section with the perforation being provided between the address field and the section. Tuhkanen does disclose a visiting card – 10 made from a paper product wherein the paper product is divisible into an address field – 23 and a section – 24 with the perforation – 15 being provided between the address field – 23 and the section – 24 – see figures 1 and 8.

Therefore it would have been obvious to one of ordinary skill in the art to take the paper product of Proctor and add the visiting card with a paper product divisible into an address field and a section of Tuhkanen, so as to the visiting card more user friendly since the address field won't be interfered with as the seed grows into a plant, thus allowing the user to be able to read the address field at all times.

*Conclusion*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to greeting cards with seeds in general:

U.S. Pat. No. 4,418,497 to Mastriano – shows 3-D greeting card with seeds

U.S. Pat. No. 5,199,745 to Balsamo – shows greeting card with perforation

U.S. Pat. No. 6,355,285 to Hoy – shows greeting card with seeds

EP Pat. No. 0329876 to Fukuda – shows picture with perforation and seeds

GB Pat. No. 2304624 to Van Kempen – shows greeting card with seeds

The following patents are cited to further show the state of the art with respect to corn seeds grown between paper products in general:

U.S. Pat. No. 5,922,776 to Wellinghoff et al. – shows corn seed between papers

FR Pat. No. 2,605,178 to Simonin – shows seeds between paper products

8. Any inquiry concerning this communication from the examiner should be directed to David Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on Monday-Friday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon, can be reached at (703) 308-2574.

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*Darren W. Ark*  
Darren W. Ark  
Primary Examiner  
Art Unit 3643